IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE SEVENTEENTH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION NO : 1328 of 2002

Between:

1. Smt. S.Durgamma, W/o Narsaiah
2. K.Rajaiah, S/o Mallaiah
3. S.Lingaiah, S/o Hanmaiah
4. P.Mallaiah, S/o Muthaiah
5. K.Jagannadham S/o Narsaiah
6. K.Rajaiah, S/o Khasim
7. D.Khashim S/o Ram das
8. D.Galaiah, S/o Narsaiah
9. D.Narsaiah, S/o Rajaiah
10. D.Rajaiah, S/o Ramdas
11. D.Nampally, S/o Ramdas
12. D.Rajaiah S/o Pochaiah
13. P.Chandraiah, S/o Mallaiah

(All the petitionrs are R/o Ramancha village, Chigurumamidi Mandal, Karimnagar Dist)

..... PETITIONERS

AND

1. The Collector (Panchayat Wing), Karimnagar.

2. The District Panchayat Officer, Karimnagar.

3. Gram Panchayat, rep. by its Sarpanch, Ramancha village, Chigurumamidi Mandal, Karimnagar District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, order or direction more particularly one in the nature of a writ of Certiorari calling for the records relating to the issuance of impugned order in Roc.No.A2/2351/2000-Pts., dated 05.01.2002 of the first respondent and declare the same as arbitrary, illegal and quash the same.

Counsel for the Petitioners: MR.S.SATYAM REDDY

Counsel for the Respondents 1 and 2: GP FOR Panchayat Raj

Counsel for the Respondent No.3: Mr. P. Raghavender Reddy

The Court made the following :

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.1328 OF 2002

ORDER:

All the petitioners claimed to be owners of agricultural lands in Ramancha village of Chigurumamidi Mandal in Karimnagar District. They allege that the land has become uncultivable due to accumulation of sand. Therefore, pursuant of orders of this Court in W.P.No.10519 of 2001, the Convenor of District Level Committee and Competent Authority permitted the petitioners to remove the sand from their lands. The said proceedings dated 10.10.2001 was, however, cancelled by the third respondent by another proceedings dated 05.01.2002. Assailing which the present writ petition is filed.

A Division Bench of this Court, to which I was a member, in **Bheemagari Bhaskar v Revenue Divisional Officer, Bhongir, Nalgonda**, considered the question as to whether the owner is entitled to remove the mineral on his land. This Court, after referring to A.P.Minor Mineral Concession Rules, 1966 and the relevant provisions of Mines and Minerals (Regulation and Development) Act, 1957, laid down as under:

The pattadars have no right as such over the minor mineral unless they obtain a permit is also absolutely clear from Rule 12(2-A) of the rules, which merely provide for grant of a preference to them in this regard. The said provision clearly goes to show that only in the event any auction is held, other things being equal, the pattadar will have a preference, but by necessary implication, it also mean that they do not derive any right there-over automatically. In any event, as noticed hereinbefore, in some of the cases, a dispute has been raised by the State that any sand is deposited on the land, and such a question cannot be gone into by this Court in exercise of its jurisdiction under Article 226 of the Constitution of India. The competent authorities of the State must, therefore, take recourse to the law in terms of the provisions under the said rules in respect of the sand, if any, deposited at the land of the pattadars.

Following the same, this writ petition is also disposed of giving liberty to the petitioners to again approach the third respondent seeking permission for removing the sand allegedly accumulated on their lands. As and when such application is filed, the third respondent, keeping in view the judgment cited hereinabove, may pass appropriate orders in accordance with law.

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(V.V.S.RAO,J)

17.09.2004.

pln

To

1. The Collector (Panchayat Wing), Karimnagar.
2. The District Panchayat Officer, Karimnagar.
3. 2 CCs to the G.P. for Panchayat Raj, High Court Buildings, Hyderabad (OUT).
4. 2 CD copies.